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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,169	03/08/2001	Christopher Keith	IVEN125473	1150

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EXAMINER

GRAHAM, CLEMENT B

ART UNIT	PAPER NUMBER
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3692

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06/20/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/802,169	Applicant(s) KEITH, CHRISTOPHER	
	Examiner Clement B. Graham	Art Unit 3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 and 24-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 and 24-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/02/2007 has been entered.

2. Claims 1-22, and 24-30 remained pending and claim 31 has been cancelled.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-22, and 24-30, are rejected under 35 U.S.C. 103(a) as being unpatentable over by Hambrecht et al (Hereinafter Hambrecht U.S Patent No. 6, 629, 082) in view of Lutnick et al (Hereinafter Lutnick U.S Patent No. 6, 629, 082).

As per claim 1, Hambrecht discloses a method of facilitating trading, comprising: automatically, via a computer, providing a price inquiry for an item to a market process having an order file, wherein an improved price is a price that is higher than the highest buy price in the order file for buying the item or lower than the lowest sell price in the order file for selling the item, and automatically, via the computer, requesting that the market process notify its crowd of a price improvement opportunity for the item. (see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

Hambrecht Fail to explicitly teach the market process also having for the item, one or more trading processes registered therewith as a crowd, wherein by registration the trading processes in the crowd have indicated interest in receiving opportunities to improve upon a price that is listed in the order file for the item.

However Lutnick discloses the Participants interact with system logic during Price Improvement trading via an input device. Various input devices can be used as exemplified by the specialized keyboard depicted in FIG. 12. The keyboard includes special LCD keys, whose function and display is directly tied to the state of the Trading Processor. The keyboard has two vertical rows of 5 LCD keys each and a horizontal row of 7 LCD keys. The horizontal row of LCD keys dynamically display the three different price levels available on both the Bid and Offer Sides. This row is called the "Price Row". This display updates in real-time as prices changes in the Trading Processor. The center key in this row shows a price incrementor value. The most appropriate incrementor value is determined by the Trading Processor, based on the range of the Spread between the best and worst markets. This incrementor value is also updated real-time as prices changes. The bid prices travel to the left of the keyboard from the center key in order of best to worst. Similarly, the Offer prices travel to the right. As different price levels appear in the Price Improvement Bid-Offer State, they are displayed in the Price Row. To facilitate data entry and quickly react to the market, the Participant simply needs to press one of the LCD keys to chose which price level he wants to trade. After selecting the price, the Participant will choose one of the action keys represented by the vertical row of the LCD keys. If the Participants wants to trade below or above the prices present in the market at that point, Participant can use the incrementor key to indicate how far below or above he wants to go. (see column 29 lines 23-51 and column 33 lines 58-63 and column 34 lines 47-67).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Hambrecht to include the market process also having for the item, one or more trading processes registered therewith as a crowd, wherein by registration the trading processes in the crowd have indicated interest in receiving opportunities to improve upon a price that is listed in the order file for the item taught by Lutnick in order to assist in financial transactions. More particularly, the present invention relates to a data processing apparatus and method for the managed trading of select classes of assets including securities, financial instruments, commodities, and their derivatives in accordance with specific protocols in

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an auction format with controlled sequences of auction events. The inventive system is presented in the context of a selected fixed income financial instruments auction for fairly and quickly transacting bid-offer trading, while providing for distribution of trading incentives.

As per claim 2, Hambrecht discloses further comprising trading at a price provided by the crowd. (see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 3, Hambrecht discloses wherein the automatically providing and requesting are performed by a trading process. (see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 4, Hambrecht discloses a method of providing a crowd price for an item, wherein the crowd price improves upon a book price for the item at a market process, the method comprising:
wherein an improved price is a price that is higher than the highest buy price in the book for buying the item or lower than the lowest sell price in the book for selling them, automatically, via the computer or another computer, determining whether to improve upon the book price for the item by providing a crowd price, and automatically, via the computer or the other computer, providing the crowd price that improves the book price when the determination is positive. (see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

Hambrecht fail to explicitly automatically, via a computer, receiving notice at a trading process of an opportunity to improve upon a book price for the item, wherein the trading process is registered with the market process as being in a crowd prime for the item, the crowd comprising one or more trading processes that have indicated interest in receiving opportunities to improve upon a book price for the item outside of the book.

However Lutnick discloses the Participants interact with system logic during Price Improvement trading via an input device. Various input devices can be used as exemplified by the specialized keyboard depicted in FIG. 12. The keyboard includes special LCD keys, whose function and display is directly tied to the state of the Trading Processor. The keyboard has two vertical rows of 5 LCD keys each and a horizontal

row of 7 LCD keys. The horizontal row of LCD keys dynamically display the three different price levels available on both the Bid and Offer Sides. This row is called the "Price Row". This display updates in real-time as prices changes in the Trading Processor. The center key in this row shows a price incrementor value. The most appropriate incrementor value is determined by the Trading Processor, based on the range of the Spread between the best and worst markets. This incrementor value is also updated real-time as prices changes. The bid prices travel to the left of the keyboard from the center key in order of best to worst. Similarly, the Offer prices travel to the right. As different price levels appear in the Price Improvement Bid-Offer State, they are displayed in the Price Row. To facilitate data entry and quickly react to the market, the Participant simply needs to press one of the LCD keys to chose which price level he wants to trade. After selecting the price, the Participant will choose one of the action keys represented by the vertical row of the LCD keys. If the Participants wants to trade below or above the prices present in the market at that point, Participant can use the incrementor key to indicate how far below or above he wants to go. (see column 29 lines 23-51 and column 33 lines 58-63 and column 34 lines 47-67).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Hambrecht to include automatically, via a computer, receiving notice at a trading process of an opportunity to improve upon a book price for the item, wherein the trading process is registered with the market process as being in a crowd prime for the item, the crowd comprising one or more trading processes that have indicated interest in receiving opportunities to improve upon a book price for the item outside of the book taught by Lutnick in order to assist in financial transactions. More particularly, the present invention relates to a data processing apparatus and method for the managed trading of select classes of assets including securities, financial instruments, commodities, and their derivatives in accordance with specific protocols in an auction format with controlled sequences of auction events. The inventive system is presented in the context of a selected fixed income financial instruments auction for fairly and quickly transacting bid-offer trading, while providing for distribution of trading incentives.

As per claim 5, Hambrecht discloses wherein the determining is performed in accordance with an order processing methodology. (see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 6, Hambrecht discloses wherein the order processing methodology is represented in a decision table. (see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 7, Hambrecht discloses wherein the determining includes requesting an instruction from a user. (see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 8, Hambrecht discloses further comprising automatically registering as part of [[a]] the crowd to receive the price improvement opportunity notice. (see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 9, Hambrecht discloses wherein the automatically registering occurs with a market process. (see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 10, Hambrecht discloses wherein the automatically receiving notice, determining and providing a crowd price are performed by a trading process. (see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 11, Hambrecht discloses a method of providing a crowd price for an item, wherein the crowd price improves upon a proposed pairing price for the item, the method comprising: wherein an improved price is a price that is higher than the proposed pairing price for buying the item or lower than the proposed pairing price for selling the item. automatically, via the computer or another computer, determining whether to improve upon the proposed pairing price for the item by providing a crowd price, and automatically, via the computer or the other computer, providing the crowd price that positive and automatically, via a computer. (see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

Hambrecht fail to explicitly teach receiving notice at a trading process of a proposed pairing price for the item, wherein the trading process is registered as being in a crowd

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for the item the crowd comprising one or more trading process that have indicated interest in receiving opportunities to improve upon a proposed pairing price for the item.

However Lutnick discloses the Participants interact with system logic during Price Improvement trading via an input device. Various input devices can be used as exemplified by the specialized keyboard depicted in FIG. 12. The keyboard includes special LCD keys, whose function and display is directly tied to the state of the Trading Processor. The keyboard has two vertical rows of 5 LCD keys each and a horizontal row of 7 LCD keys. The horizontal row of LCD keys dynamically display the three different price levels available on both the Bid and Offer Sides. This row is called the "Price Row". This display updates in real-time as prices changes in the Trading Processor. The center key in this row shows a price incrementor value. The most appropriate incrementor value is determined by the Trading Processor, based on the range of the Spread between the best and worst markets. This incrementor value is also updated real-time as prices changes. The bid prices travel to the left of the keyboard from the center key in order of best to worst. Similarly, the Offer prices travel to the right. As different price levels appear in the Price Improvement Bid-Offer State, they are displayed in the Price Row. To facilitate data entry and quickly react to the market, the Participant simply needs to press one of the LCD keys to chose which price level he wants to trade. After selecting the price, the Participant will choose one of the action keys represented by the vertical row of the LCD keys. If the Participants wants to trade below or above the prices present in the market at that point, Participant can use the incrementor key to indicate how far below or above he wants to go. (see column 29 lines 23-51 and column 33 lines 58-63 and column 34 lines 47-67).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Hambrecht to include receiving notice at a trading process of a proposed pairing price for the item, wherein the trading process is registered as being in a crowd for the item the crowd comprising one or more trading process that have indicated interest in receiving opportunities to improve upon a proposed pairing price for the item taught by Lutnick in order to assist in financial transactions. More particularly, the present invention relates to a data processing

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apparatus and method for the managed trading of select classes of assets including securities, financial instruments, commodities, and their derivatives in accordance with specific protocols in an auction format with controlled sequences of auction events. The inventive system is presented in the context of a selected fixed income financial instruments auction for fairly and quickly transacting bid-offer trading, while providing for distribution of trading incentives.

As per claim 12, Hambrecht discloses wherein the determining is performed in accordance with an order processing methodology. (see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 13, Hambrecht discloses wherein the order processing methodology is represented in a decision table. (see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 14, Hambrecht discloses wherein the determining includes requesting an instruction from a user. (see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 15, Hambrecht further comprising automatically registering as part of the crowd to receive the proposed pairing price notice. (see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 16, Hambrecht discloses wherein the automatically registering occurs with a market process. (see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 17, Hambrecht discloses wherein the automatically receiving notice, determining and providing a crowd price are performed by a trading process. (see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 18, Hambrecht discloses a method of providing price discovery for an item, comprising:

automatically, via the computer or the other computer, providing the crowd price as a result of the price discovery when the crowd price is better than the book price., wherein the crowd price is better than the book price when the crowd price is higher than the highest buy price in the book for buying the item or lower than the lowest sell price in

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the book for selling the item. (see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

Hambrecht fail to explicitly teach automatically, via a computer, notifying a crowd of trading processes registered with a market process of an opportunity to improve upon a book price for the item, wherein by registration the trading processes in the crowd have indicated interest in receiving opportunities to improve upon a book price for the item, automatically, via the computer or another computer, receiving a crowd price from the crowd for the item.

However Lutnick discloses the Participants interact with system logic during Price Improvement trading via an input device. Various input devices can be used as exemplified by the specialized keyboard depicted in FIG. 12. The keyboard includes special LCD keys, whose function and display is directly tied to the state of the Trading Processor. The keyboard has two vertical rows of 5 LCD keys each and a horizontal row of 7 LCD keys. The horizontal row of LCD keys dynamically display the three different price levels available on both the Bid and Offer Sides. This row is called the "Price Row". This display updates in real-time as prices changes in the Trading Processor. The center key in this row shows a price incrementor value. The most appropriate incrementor value is determined by the Trading Processor, based on the range of the Spread between the best and worst markets. This incrementor value is also updated real-time as prices changes. The bid prices travel to the left of the keyboard from the center key in order of best to worst. Similarly, the Offer prices travel to the right. As different price levels appear in the Price Improvement Bid-Offer State, they are displayed in the Price Row. To facilitate data entry and quickly react to the market, the Participant simply needs to press one of the LCD keys to chose which price level he wants to trade. After selecting the price, the Participant will choose one of the action keys represented by the vertical row of the LCD keys. If the Participants wants to trade below or above the prices present in the market at that point, Participant can use the incrementor key to indicate how far below or above he wants to go. (see column 29 lines 23-51 and column 33 lines 58-63 and column 34 lines 47-67).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Hambrecht to include market process of an opportunity to improve upon a book price for the item, wherein by registration the trading processes in the crowd have indicated interest in receiving opportunities to improve upon a book price for the item, automatically, via the computer or another computer, receiving a crowd price from the crowd for the item taught by Lutnick in order to assist in financial transactions. More particularly, the present invention relates to a data processing apparatus and method for the managed trading of select classes of assets including securities, financial instruments, commodities, and their derivatives in accordance with specific protocols in an auction format with controlled sequences of auction events. The inventive system is presented in the context of a selected fixed income financial instruments auction for fairly and quickly transacting bid-offer trading, while providing for distribution of trading incentives.

As per claim 19, Hambrecht discloses wherein the automatically providing occurs in response to a price inquiry within a published delay time. (see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 20, Hambrecht discloses wherein when the crowd price is provided as a response to a price inquiry, a pairing for the item must occur. (see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 21, Hambrecht discloses further comprising receiving a price inquiry specifying that the response to the price inquiry should occur after automatically notifying the crowd of the price improvement opportunity. (see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 22, Hambrecht discloses wherein the automatically notifying, receiving and providing are performed by a market process. (see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 24, Hambrecht discloses a method of facilitating trading of an item, comprising: automatically, via a computer, via the computer or the other computer, pairing with the crowd price when the crowd price is better than the proposed pairing

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price wherein the crowd price is better than the proposed pairing price when the crowd price is higher than the proposed pairing price for buying the item or lower than the proposed pairing price for selling the item. (see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

Hambrecht fail to explicitly teach notifying a crowd of trading processes registered with a market process of a proposed pairing price for the item wherein by registration the trading processes in the crowd have indicated interest in receiving opportunities to improve upon a proposed pairing price for the item, automatically, via the computer or another computer, receiving a crowd price from the crowd for the item, and automatically.

However Lutnick discloses the Participants interact with system logic during Price Improvement trading via an input device. Various input devices can be used as exemplified by the specialized keyboard depicted in FIG. 12. The keyboard includes special LCD keys, whose function and display is directly tied to the state of the Trading Processor. The keyboard has two vertical rows of 5 LCD keys each and a horizontal row of 7 LCD keys. The horizontal row of LCD keys dynamically display the three different price levels available on both the Bid and Offer Sides. This row is called the "Price Row". This display updates in real-time as prices changes in the Trading Processor. The center key in this row shows a price incrementor value. The most appropriate incrementor value is determined by the Trading Processor, based on the range of the Spread between the best and worst markets. This incrementor value is also updated real-time as prices changes. The bid prices travel to the left of the keyboard from the center key in order of best to worst. Similarly, the Offer prices travel to the right. As different price levels appear in the Price Improvement Bid-Offer State, they are displayed in the Price Row. To facilitate data entry and quickly react to the market, the Participant simply needs to press one of the LCD keys to chose which price level he wants to trade. After selecting the price, the Participant will choose one of the action keys represented by the vertical row of the LCD keys. If the Participants wants to trade below or above the prices present in the market at that point, Participant can use the

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incrementor key to indicate how far below or above he wants to go. (see column 29 lines 23-51 and column 33 lines 58-63 and column 34 lines 47-67).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Hambrecht to include notifying a crowd of trading processes registered with a market process of a proposed pairing price for the item wherein by registration the trading processes in the crowd have indicated interest in receiving opportunities to improve upon a proposed pairing price for the item, automatically, via the computer or another computer, receiving a crowd price from the crowd for the item, and automatically taught by Lutnick in order to assist in financial transactions. More particularly, the present invention relates to a data processing apparatus and method for the managed trading of select classes of assets including securities, financial instruments, commodities, and their derivatives in accordance with specific protocols in an auction format with controlled sequences of auction events. The inventive system is presented in the context of a selected fixed income financial instruments auction for fairly and quickly transacting bid-offer trading, while providing for distribution of trading incentives.

As per claim 25, Hambrecht discloses wherein the automatically pairing occurs within a published delay time. (see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 26, Hambrecht discloses wherein the published delay time is less than one second. (see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 27, Hambrecht wherein the published delay time is greater than one second. (see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 28, Hambrecht discloses further comprising determining that a next pairing will be at the proposed pairing price different than a previous pairing price. (see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 29, Hambrecht discloses wherein the proposed pairing price is the best price from a file of stored orders. (see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 30, Hambrecht discloses wherein the automatically notifying, receiving and pairing are performed by a market process. (see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

Response to Arguments

5. Applicant's arguments files on 4/02/07 have been fully considered but they are moot in view of new grounds rejections.

6. Applicant's claims 1, 4, 11, 18, 24, states " wherein by registration , eherein the trading process, whwrein the crowd price improves "

However the subject matter of a properly construed claim is defined by the terms that limit its scope. It is this subject matter that must be examined. As a general matter, the grammar and intended meaning of terms used in a claim will dictate whether the language limits the claim scope. Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. The following are examples of language that may raise a question as to the limiting effect of the language in a claim:

- (A) statements of intended use or field of use,
- (B) "adapted to" or "adapted for" clauses,
- (C) "wherein" clauses, or
- (D) "whereby" clauses.

This list of examples is not intended to be exhaustive. See also MPEP § 2111.04.

**>USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim should not be read into the claim. E-Pass Techs., Inc. v. 3Com Corp., 343 F.3d 1364, 1369, 67 USPQ2d 1947, 1950 (Fed. Cir. 2003) (claims must be interpreted "in view of the specification" without importing limitations from the specification into the claims unnecessarily). In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-

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551 (CCPA 1969). See also *In re Zletz*, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) ("During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow.... The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed.... An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous.

Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process.").

Where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a "lexicographic vacuum, but in the context of the specification and drawings."). Any special meaning assigned to a term "must be sufficiently clear in the specification that any departure from common usage would be so understood by a person of experience in the field of the invention." *Multiform Desiccants Inc. v. Medzam Ltd.*, 133 F.3d 1473, 1477, 45 USPQ2d 1429, 1432 (Fed. Cir. 1998). See also MPEP § 2111.01.

Any inquiry concerning this communication from the examiner should be directed to Clement Graham at (703) 305-1874. The examiner can normally be reached on Monday, Tuesday, and Wednesday from 5:30AM. to 6:00PM.


7. If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Sam Hyung can be reached on (703) 305-0505.

The Official Fax Number for TC-3600 is: (703) 305-7687

Clement Graham

Patent Examiner

June 7, 2007


FRANTZY POINVIL
PRIMARY EXAMINER
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